

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LAYNE DREXEL,	:	
	:	
Plaintiff,	:	
	:	C.A. No. 05-00428 (JJF)
v.	:	
	:	Jury Trial Demanded
HARLEYSVILLE INSURANCE CO.,	:	
	:	
Defendant.	:	

Plaintiff's Objections to Defendant's Proposed Jury Instructions

Plaintiff, Layne Drexel, hereby states his objections to defendant's proposed jury instructions. Generally, defendant's proposed instructions are deficient in that they fail to address important principles of contract law, fail to advise the jury regarding evidentiary considerations, and, more importantly, fail to address several of plaintiff's claims (such as estoppel, promissory estoppel, and bad faith). A more thorough instruction, such as plaintiff's proposed jury instructions, is more appropriate in the circumstances of this case. Plaintiff also offers these specific objections:

First and Second Paragraphs:

Defendant's proposed jury instruction fails to recognize the Non-Payment provision which requires advance notice of policy cancellation. The proposed instruction also fails to recognize language in defendant's premium invoice stating that failure to pay a premium gives defendant the right to cancel (and consequently that automatic expiration does not occur).

Third and Fourth Paragraphs:

These proposed instructions fail to instruct the jury on basic contract principles (such as offer and acceptance), and ignore policy language (the Non-Payment Provision) and defendant's instructions to plaintiff (in the March 2004 Premium Invoice) regarding the potential impact of late premium payments. The proposed instructions also ignore the fact that defendant cashed plaintiff's premium check despite defendant's position that the premium was "late" when accepted. Harleysville's acceptance and negotiation of the check brought plaintiff current on the insurance contract. Further, the instructions fail to advise the jury regarding how to determine whether plaintiff's payment should be considered timely.

SMITH, KATZENSTEIN & FURLOW LLP

/s/ *Robert K. Beste*

Kathleen M. Miller (No. 2898)
Robert K. Beste, III (No. 3931)
Post Office Box 410
Wilmington, Delaware 19899
Telephone: (302) 652-8400
Facsimile: (302) 652-8405
Email: rkb@skfdelaware.com

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Attorneys for plaintiff